TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

HB 2318 – SB 2300

May 4, 2009

SUMMARY OF AMENDMENT (006866): Deletes the language of the original bill; makes multiple changes to the energy management program for state office buildings; makes multiple changes regarding state-use of energy efficient motor vehicles; requires the state to purchase only office equipment, appliances, and heating and cooling products and systems designated as Energy Star products; expands sales and use tax credits for taxpayers establishing qualified facilities that support clean energy technology; makes multiple changes to statewide building construction standards, including the addition of energy efficiency standards; revises the powers and duties of the Department of Human Services (DHS) related to energy assistance to comply with requirements to receive federal funds under the American Recovery and Reinvestment Act of 2009; authorizes local governments to adopt and enforce their own codes for one- and two-family dwellings, or non-residential dwellings, or adopt and enforce their own codes for one- and two-family dwellings and non-residential dwellings; authorizes the Department of Commerce and Insurance to contract with local governments that employ building inspectors for the purpose of conducting residential building inspections.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue –
Exceeds $1,000,000/Recurring/General Fund/Inspection Fees

Decrease State Revenue –
Exceeds $100,000/Recurring/General Fund/Tax Credits

Increase State Expenditures – $22,500/One-Time
Exceeds $900,000/Recurring/General Fund/Inspection Costs

Increase Local Revenue – Exceeds $1,000,000/Permissive
Increase Local Expenditures – Exceeds $1,000,000/Permissive

Other Fiscal Impact – The State will incur an increase in cash expenditures from the Facilities Revolving Fund in FY09-10 to fund small energy efficiency projects. Larger projects will be funded through the issuance of bonds through the Facilities Revolving Fund. According to the Administration, the up-front cost of these projects will be recovered over time from energy savings. The annual savings will not be fully realized in FY09-10. The State therefore will incur a cost in FY09-10 that will not be fully recouped in energy savings in FY09-10 but may be recouped in future years. Expenditure of funds and issuance of bonds for these projects will result in an allocation of funds from the Facilities Revolving Fund to these projects that otherwise would have been available for other projects and expenditures from the Fund but will not require an increase of appropriations from the General Fund. The net fiscal impact in FY09-10 and subsequent years from the energy efficiency projects cannot reasonably be determined because the Administration has not yet undertaken an energy audit of state buildings to quantify the cost and potential savings of energy-efficiency upgrades.

Assumptions applied to amendment:

- Energy cost savings in state buildings may be implemented through contracts with energy professionals including, but not limited to, energy service companies, commissioning and retro commissioning firms and agencies, and energy auditing consultants. Contractors will conduct studies of potential energy savings and will make changes to state office buildings to implement savings. The cost of the studies and construction will be funded through the Facilities Revolving Fund without impact to the operating budgets of state agencies. The Administration anticipates that energy savings will be sufficient to pay the full debt service on the bonds.
- Pursuant to Sections 7 through 12 of this bill as amended, each year, every effort should be made to achieve a target goal that 100 percent of newly purchased passenger motor vehicles are energy efficient motor vehicles, except for those operated in areas designated by the U.S. Environmental Protection Agency (EPA) as ozone attainment areas, where at least 25 percent of newly purchased passenger motor vehicles shall be hybrid-electric vehicles. It is assumed that this is current practice and is being accomplished as a result of Public Acts 2007, Public Chapter 532. Therefore, any net change to state expenditures is estimated to be not significant.

- Pursuant to Section 13 of this bill as amended, all future office equipment, appliances, lighting, and heating and cooling products and systems purchased by the state shall by Energy Star qualified. It is assumed that this is current practice and is being accomplished as a result of Executive Order 59 issued by the Governor on December 16, 2008. Therefore, any net change to state expenditures is estimated to be not significant.
- Pursuant to Sections 14 and 15 of this bill as amended, the definition of "emerging industry" is expanded to include entities engaging in clean energy technology for the purpose of receiving tax credits for all state sales or use taxes paid to the state of Tennessee, except for tax at the rate of one-half percent (0.5%), on the sale or use of qualified tangible personal property. These tax credits will be applied against other tax liabilities owed by qualifying taxpayers. The fiscal impact resulting from these provisions are dependent upon several unknown factors such as the number of entities that will claim tax credits that would not have received them under current law, the extent of sales and use taxes paid by qualifying entities, the extent of tax credits authorized by the Commissioner of Revenue, and the tax liabilities that such tax credits will be applied against. Given the extent of unknown factors, determining a precise estimate for these provisions is difficult. However, such decrease to state revenue is reasonably estimated to exceed $100,000 per year.
- Pursuant to Sections 16 through 23 of this bill as amended, the Department of Commerce and Insurance (TDCI) will enter into contracts with professional corporations and/or local government jurisdictions that employ building inspectors, for the purpose of conducting residential inspections on one- and two-family dwellings.
- Based on information provided by the TDCI, a minimum of 2,000 permits are expected to be issued each year as the result of inspection services provided via contract from inspectors who are employed by either a professional corporation or a local government entity. The Department indicates an average permit fee of $500 will be charged. Therefore, the increase to state revenue derived from inspection fees is estimated to exceed $1,000,000 per year (2,000 minimum permits x $500 fee = $1,000,000).
- Based on information provided by the TDCI, the cost of conducting a residential building inspection will be approximately $450. This is the amount expected to be paid via contract to either the professional corporation or the local government entity employing the respective building inspector. Therefore, the increase to state expenditures is estimated to exceed $900,000 per year (2,000 minimum permits x $450 cost = $900,000).
- Some local governments will choose to adopt and enforce the International Residential Code (IRC), published by the International

Code Council, Inc. As a result, these local jurisdictions will assume responsibility for conducting the required inspections on one-family and two-family dwellings.

- These local governments will experience an increase in expenditures for salaries and benefits for new inspectors who will be hired to conduct the residential inspections as expanded by the adoption of the IRC. In addition, these local governments will assess inspection fees sufficient for covering the increased cost of inspections.
- Based on information provided by the Municipal Technical Advisory Service (MTAS) and the County Technical Advisory Service (CTAS), the permissive increase to local government revenue is estimated to exceed $1,000,000 per year. The permissive increase to local government expenditures is estimated to exceed $1,000,000 per year.
- One-time state expenditures for computer program development for the Department of Commerce and Insurance is estimated to be $22,500.
- Pursuant to Sections 24 through 25, the Department of Human Services (DHS) is directed to administer any funding received under the federal low-income energy assistance and weatherization programs, to promulgate certain related rules and regulations, and to ensure that there are qualified contractors and contracting firms, energy auditors, auditing firms, and energy inspectors qualified to provide weatherization services and products as they relate to meeting the goals of the American Recovery and Reinvestment Act of 2009. Based on the response provided by DHS, any change to departmental revenue or expenditures is considered to be not significant.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White, Executive Director

/rnc